



Paper No. 10

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JAN 24 2003

OFFICE OF PETITIONS

In re Application of
Ottusch, Wandzura, Contopanagos, Visher, :
and Rokhlin :
Application No. 09/882,817 : **DECISION ON PETITION**
Filed: June 15, 2001 :
Attorney Docket No.HRL053 :

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment filed November 4, 2002. This is also a decision on the renewed petition under 37 CFR 1.47(a) filed November 11, 2002 (certificate of mailing dated March 11, 2002).

The petition under 37 CFR 1.181(a) is GRANTED.

The renewed petition under 37 CFR 1.47(a) is DISMISSED.

TREATMENT UNDER 37 CFR 1.181(a)

This application was held abandoned on February 12, 2002, because it was believed that the no response was received to the decision of January 11, 2002, dismissing the petition under 37 CFR 1.47(a) filed November 14, 2001. Petitioner was advised of the above-cited application's abandonment by a Notice of Abandonment mailed September 19, 2002.

Petitioner maintains that a timely response was mailed to the decision of January 11, 2002, and filed a copy of the response along with a certificate of mailing dated March 11, 2002. Based on the facts as stated in the instant petition, and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed; the holding of abandonment is, therefore, withdrawn as of the mailing date of this decision. There is no fee associated with the petition to withdraw the holding of abandonment.

TREATMENT UNDER 37 CFR 1.47(a)

The petition under 37 CFR 1.47(a) is **dismissed**.

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this reissue application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on June 15, 2001, without an executed oath or declaration. A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed on August 13, 2001, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. On November 14, 2001, in response to the Notice, petitioner filed a petition under 37 CFR 1.47(a) that was dismissed by a decision mailed January 11, 2002. On November 4, 2002 (certificate of mailing dated March 11, 2002), petitioner filed a communication that is being treated as a renewed petition under 37 CFR 1.47(a) and a declaration executed by inventor Contopanagos.

A grantable petition under 37 CFR 1.47(a) requires:


- (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee,
- (4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (2) as set forth above.

The declaration filed is not acceptable because it only lists the name of inventor Contopanagos, which, according to the language of the declaration itself, would imply that inventor Contopanagos is the sole inventor named in the application. Title 37, Section 1.63 of the Code of Federal regulations provides, in pertinent part, that "(a) [a]n oath or declaration filed under 1.51(b)(2) as a part of a nonprovisional application must: (2) Identify each inventor by full name . . ." The declaration filed for inventor Contopanagos only list his name. With any renewed petition filed, a declaration must be filed that is executed by inventor Contopanagos and lists the names of all joint inventors. Petitioner is advised to consult 37 CFR 1.63 for other nuances relative to a proper oath or declaration.

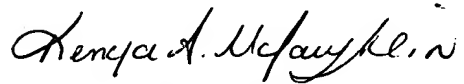
Petitioner is advised that Scott Ledford, Petitions Attorney, is no longer employed by the Patent and Trademark Office. Petitioner should, therefore, address any further questions relative to this petition to the undersigned at (703) 305-0010.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DA 
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
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